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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,348

02/17/2006

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EXAMINER

LOW, LINDSAY M

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

03/05/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,348	<b>Applicant(s)</b> VAN DE SANDE, MARINUS LAMBERTUS	
	<b>Examiner</b> LINDSAY M. LOW	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-9 is/are pending in the application.  
4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. In view of the appeal brief filed on December 2<sup>nd</sup>, 2008, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Rinaldi I Rada/  
Supervisory Patent Examiner, Art Unit 3721.

### ***Election/Restrictions***

2. Claims 7-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected method, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 26<sup>th</sup>, 2007.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal (3,950,203) in view of Oleksy (5,447,009) and Admitted Prior Art.

Van der Waal discloses the same invention including supply reels 6 having a supply rolls for each band shown in the figures a frame 4, a conveyor 2 that is supported by the frame and is used for moving packages forward, band clamping and guiding means (Figs. 2-8) which move transversely of the conveyor away and toward each other and are connected to supply reels 6, and welding means (col. 3 lines 31-38).. Each supply reel is capable of holding different types of tape, such as metal, another fusible material, or non-fusible material (col.1 lines 65-69 and col. 3 line 31). Therefore, these different types of tape can be considered to be of the strap type and are applied simultaneously one above the other as can be seen in the figures. Note that Van der Wal's device is capable of applying two different types (metal, non-fusible, etc.) simultaneously. A first group of band clamping, guiding, and welding means has a first pair of jaws 16 and 19 and a second group with a second pair of jaws (Fig. 1) where each group is arranged one above the other. It should be noted that the band clamping, guiding, and welding means (Figs. 2-8) are jaws having clamping faces 17, 18, 20, 21 and are therefore clamping jaws. In addition, as stated in col. 3 lines 31-38, spot

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welding electrodes can be placed on the jaws for attaching the band ends together.

Therefore, they are also welding jaws.

Regarding claims 4-5, each jaw has a clamping surface (17, 20) and a guiding surface (18, 21), which runs transversely to the direction of movement of the package and co-acts with the surface of the other jaw (Fig. 4). The surfaces are provided with tooth-like protrusions (Fig. 4) lying in a direction opposite of the pulling direction. It is deemed inherent that a motor drives the supply rolls, i.e. a motor causes a pulling force on the tapes which, in turn, drive the supply reels.

Van der Wal fails to disclose the conveyor being a belt. However, these features are admitted prior art since Applicant has not adequately traversed the obviousness of such features, i.e. Applicant has not pointed out the specific reason why they are not obvious. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute Van der Wal's conveyor rollers with a conveyor belt for the purpose of smoothly and continuously transporting packages to be strapped.

Van der Wal discloses the same invention substantially as claimed except for one of the bands being of the film type. However, Oleksy teaches wrapping packets with film bands 16a-16e for the purpose of improving the cohesiveness of the packets, while allowing the packets to breathe, for example with food packets (see col. 1 lines 23-25 and col. 3 lines 17-22). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide film as a band type in Van der Wal's device for the purpose of improving the cohesiveness of the packets, while allowing the packets to breathe.

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5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal (3,950,203) in view of Olesky (5,447,009) and Admitted Prior Art, as applied to claims 1 and 4-5 above, and further in view of Odenthal (5,735,104).

The modified device of Van der Wal discloses the same invention substantially as claimed except for a second band being of a larger width than the first band. However Odenthal teaches a device for wrapping two different size bands around packages for the purpose of providing support by making one band a tray-forming strap (col. 2 lines 53-55). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a second band as taught by Odenthal that is of a different width for the purpose of providing more support to Van der Wal's modified package.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal (3,950,203) in view of Olesky (5,447,009) and Admitted Prior Art, as applied to claims 1 and 4-5 above, and further in view of Odenthal (5,551,212).

The modified device of Van der Wal discloses the same invention substantially as claimed except for a second band being provided with a label. However Odenthal teaches a device for wrapping bands around packages where a band can be embossed or printed, thus being provided with a label for the purpose of providing an advertisement or identification of the package (col. 2 lines 39-41). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have a second band that has print or embossment on it as taught by Odenthal for the purpose of providing an advertisement or identification of the package being wrapped.

***Response to Arguments***

7. Applicant's arguments with respect to Simeone have been considered but are moot in view of the new ground(s) of rejection.
8. Applicant's arguments with respect to Van der Wal been fully considered and are believed to have been addressed in the above rejection.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Usui, Garr, Krichiver, Bargholtz, Simons, Gombos, Soderberg, Reigrut, and Cere are cited to show inventions teaching the wrapping of packets with film bands. In particular, note that Garr teaches applying a film band and strap bands simultaneously to packets.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSAY M. LOW whose telephone number is (571)272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.
11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. M. L./  
Examiner, Art Unit 3721

/Rinaldi I Rada/  
Supervisory Patent Examiner, Art Unit 3721

2/27/2009